

# State Notes

## TOPICS OF LEGISLATIVE INTEREST

January/February 2006



### **Mandating Electronic Animal Identification for Cattle** **By Craig Thiel, Fiscal Analyst**

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#### **Introduction**

Discoveries in the United States of cattle with bovine spongiform encephalopathy (BSE), also known as "mad cow disease", along with the increasing global threat of other zoonotic diseases (i.e., diseases capable of being transmitted from animal to human) have demonstrated the importance of accurate, rapid animal identification systems. Responding to these recent developments, the Michigan Commission of Agriculture, at its November 2005 meeting, adopted a resolution directing the Michigan Department of Agriculture (MDA) to create an electronic animal identification system as the official identification for all cattle in Michigan. The Commission resolution established an implementation date of March 1, 2007. The proposal to develop this system is a direct result of the State's efforts to eradicate bovine tuberculosis (TB) from Michigan. It is believed that such a system is a necessary step to assist Michigan in moving toward bovine TB-free status statewide as well as a critical component for overall disease prevention and surveillance in Michigan's cattle herd.

#### **What is Electronic Identification?**

Animal identification has been around in some form for centuries. Cattle branding, for example, is one of the oldest known techniques for identifying cattle. Today, most cattle producers use a metal ear tag with a unique number to identify specific animals. Systems and techniques of identification vary across animal types. Generally, electronic identification (EID) applies modern technology to traditional systems. Specifically, EID employs an ear tag imbedded with a radio frequency device and marked with a unique number that cannot be duplicated. The ear tags are linked to databases that include information specific to each animal. In addition to the animal information, the central databases contain information specific to premises that house cattle, such as farms, feedlots, auction facilities, and slaughter facilities. Radio frequency readers are used to determine the location and movement of animals in the event of a disease outbreak.

#### **Regulatory Pressures Driving Force**

Animal identification systems exist for different reasons and purposes. For example, a business case can be made for the voluntary development of such systems. Specifically, economic forces in the food animal industry, most notably beef and dairy cattle, are driving producers to certify the origin, movement, health, and history of animals as they move through the marketplace. Michigan's electronic identification program for cattle is being established for one reason alone: to support the State's animal disease control, eradication, monitoring, and surveillance programs.

Originally, Michigan's program was launched as a voluntary pilot project in November 2001 as part of the bovine TB eradication program. Early on, the EID program was viewed as an integral part of Michigan's application for bovine TB split state status from the United States



Department of Agriculture (USDA).<sup>1</sup> By employing EID in the "infected zone" of northeastern Lower Peninsula, Michigan is able to demonstrate its ability to identify diseased animals accurately and rapidly and prevent the movement of such animals to other parts of the State. Further, use of this system is key to ensuring that testing requirements are met before animal movement from the infected zone.

Today, the program is being expanded outside of the infected zone to help Michigan regain statewide bovine TB-free status. For example, as part of the identification requirements for animal movement statewide, the Director of the MDA recently issued an order to require that all cattle be identified with EID ear tags before movement from premises within Michigan. Previously, EID was required only for animal movement from premises within the infected zone. This mandate will become effective for all cattle movement in Michigan beginning March 2007.

Michigan's mandatory program is being developed concurrently with the development of a voluntary national animal identification system (NAIS). The NAIS is not specific to any one animal industry, whereas Michigan's program is specific to cattle at this point. Similar to the Michigan program, the driving force of the Federal program is the risk of an outbreak of a foreign animal disease. The goal of the NAIS is to be able to identify all animals and premises that have had contact with an animal disease within 48 hours of discovery. Because of Michigan's seminal work in EID, the Federal program is looking to Michigan as a model in many respects.

### **What Will Statewide EID Cost?**

While there are a number of components to a statewide EID program for cattle, the majority of the costs will be incurred in the development of the infrastructure necessary to identify, locate, and track animals as they move through the commerce channels. At the center of this system is the mandate to provide radio frequency ear tags to all cattle before movement in Michigan by the March 2007 deadline. According to the most recent count, there are approximately 1,010,000 head of cattle in Michigan. To date, some producers have received these tags free of charge or at a reduced rate from the State. As part of the bovine TB program, the MDA made the tags available free of charge to producers in the infected zone and to owners of some selected herds outside of this zone.

As part of Michigan's attempt to obtain bovine TB-free status for the Upper Peninsula, the MDA offered to split the cost of the ear tags with producers in the Upper Peninsula from August 2004 through September 2005. Approximately 46,000 animals received tags under this program. (Note: The Federal government granted the Upper Peninsula bovine TB-free status effective September 30, 2005.) As of January 2006, about 290,000 animals statewide had been identified with the radio frequency ear tags. It is estimated that it will cost the cattle industry about \$1.4 million to outfit the remainder of the Michigan cattle herd with the tags by March 2007.

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<sup>1</sup> Split State status allows Michigan to be divided into more than one zone, defined geographically, for the purpose of animal testing and movement requirements.



In addition to the ear tags, the EID infrastructure consists of ear tag readers and database development. The MDA has paid for readers at a number of locations throughout Michigan, including a number of large processing plants and 11 animal markets. Readers also are being used in smaller processors and some farms. As of January 2006, there were about 15,000 livestock premises identified in a central database managed by the MDA.

Appropriations for the EID program have consisted of both State and Federal resources from the USDA. An initial \$1.3 million Federal grant was received in fiscal year (FY) 2000-01 to jump-start the program. Through December 2005, a total of \$1.6 million had been spent on the EID program, with about \$1.5 million coming from Federal funds and \$100,000 from State resources. The FY 2005-06 budget assumes expenditures totaling \$250,000, entirely from Federal resources.

### **Conclusion**

Michigan's EID program has come a long way in a relatively short period. While initially it was implemented as a local, voluntary program, today it is moving toward a mandatory statewide program. Clearly, the regulatory pressures posed by Michigan's unique bovine TB situation have fueled this progression. As a result of the successful and fairly rapid implementation of this animal identification system, Michigan is recognized as a leader in EID for cattle in the United States. For this reason, Michigan will be well positioned in the event that a nationwide program is developed, and possibly mandated by the Federal government. Similarly, the State will be able to draw upon its experiences with cattle for the development of other animal species EID systems.

Despite Michigan's relative success to date with its EID program, stakeholder concerns remain as the program moves forward. Specifically, the issue of cost associated with purchasing ear tags, readers, and database development is not completely resolved. At this time, it appears that the producers will be responsible for outfitting their animals with the tags at a price of nearly \$1.4 million. If there is some level of cost sharing, how will the State fund its portion? A second concern relates to confidentiality of the information collected from producers and how the State and others will gain access to and use that information. Will this information be subject to government disclosure laws, such as the Freedom of Information Act? A third concern deals with outreach and communication regarding the State mandate and deadline. What resources will the State commit in order to ensure that the regulated community is informed about its responsibilities? Finally, there is concern about consistency with Federal program implementation.

**Sources:** "Electronic Identification Program" brochure, Michigan Department of Agriculture; "National Animal Identification System, Draft Strategic Plan 2005 to 2009", United States Department of Agriculture.

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### **Judicial Resource Recommendations** **By Stephanie Yu, Fiscal Analyst**

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In general, the State Court Administrative Office (SCAO) recommends changes to the current number of judgeships every two years. Typically, the Legislature then passes legislation to implement some or all of the changes.

In 2003, however, none of the changes recommended by the SCAO were enacted. Budget constraints and other considerations affected the decision-making process. Two years later, in October 2005, the SCAO released a new set of Judicial Resource Recommendations (JRR). Legislation is pending in both houses in response to this report.

### **Background**

Article VI, Section 3 of the State Constitution requires the Supreme Court to appoint “an administrator of the courts”, who must perform administrative duties assigned by the court.

In addition, Section 8171 of the Revised Judicature Act states:

The supreme court may make recommendations to the legislature in regard to changes in the number of judges, the creation, alteration and discontinuance of districts based on changes in judicial activity.

Therefore, in keeping with its constitutional and statutory responsibilities, the SCAO issues a biennial set of recommendations for changes in the number of judgeships. The two-year period was chosen to coincide with the election cycle, in order to facilitate the election process for judges. Since 1996, when the Trial Court Assessment Commission (TCAC) was formed to develop a new methodology, the JRR has employed a weighted caseload system of assessment to identify courts for an extended analysis. The weighted caseload formula entails analyzing the amount of time spent on cases based on case type, and identifying the types of cases each court faces and in what numbers. The formula uses data from a three-year period to control for yearly fluctuations. This information translates into the respective need for judgeships in the courts. For any court whose estimated needs outweigh the number of judges by one or more, or whose judges outweigh need by one or more, the SCAO then performs an extended analysis. This extended analysis considers many different factors, including population shifts, changes in crime rates, and additional court resources. On completion of the extended analysis, which includes seeking information from the local courts, the SCAO issues its recommendations.

The Legislature typically responds with legislation to amend the Revised Judicature Act to implement some or all of the changes recommended in the JRR. The Legislature has the authority to reduce judgeships, but the Revised Judicature Act requires a resolution by the local funding unit for the addition of judgeships.

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### 2003 Judicial Resource Recommendations

In 2003, the SCAO released the following list of recommendations:

**Table 1**

<b>Judgeship Changes Recommended By State Court Administrative Office - 2003</b>			
<b>Court</b>	<b>Circuit</b>	<b>District</b>	<b>Probate</b>
Clare & Gladwin 55 <sup>th</sup> Circuit	+1		
Kalamazoo 8th District		-1	
Kent 17 <sup>th</sup> Circuit	+1		
Macomb 16 <sup>th</sup> Circuit	+1		
Mecosta & Osceola 77 <sup>th</sup> District		+1	
Saginaw 70 <sup>th</sup> District		-1	
Wayne 3 <sup>rd</sup> Circuit	Retain 1		
Wayne			-1

In November 2003, Senate Bill 823 was introduced to implement all of the changes in the JRR. The bill was reported by the Judiciary Committee, and subsequently sent to the Appropriations Committee, where multiple substitutes were proposed. After a lengthy process, a Substitute S-5 was passed by both houses and signed by the Governor. The enacted bill contained none of the changes advocated in the JRR. The final version of the bill made changes to several probate court districts, elevated nine of the 10 remaining part-time probate judges to full-time status, and granted those probate judges the powers of a district judge.

Several other bills that would have addressed the judicial resource needs of individual courts were vetoed by Governor Granholm in April 2004. These included House Bills 5479 and 5480, and Senate Bills 788 and 829, which proposed to authorize the addition of judgeships in the 77<sup>th</sup> District, the 55<sup>th</sup> Circuit, the 17<sup>th</sup> Circuit, and the 16<sup>th</sup> Circuit, respectively. The Governor's veto message for Senate Bill 788 reads:

While the creation of this new judgeship was recommended by the State Court Administrative Office last fall in its biennial review of judicial resources, the Legislature has not yet acted to alleviate insufficient judicial resources in other areas of the State. Given the importance of this issue, I do not intend to support Senate Bill 788 unless legislation addressing the need for additional judicial resources in all areas of this State is on my desk at the same time.

The veto messages for Senate Bill 829 and the House bills were identical, but the House bills' message also included the following statement: "The creation of this additional judgeship would also negatively impact the Fiscal Year 2004-2005 budget."

### 2005 Judicial Resource Recommendations

In October 2005, the SCAO released the Judicial Resource Recommendations for 2005. The SCAO recommended the following changes:

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**Table 2**

<b>Judgeship Changes Recommended By State Court Administrative Office – 2005</b>			
<b>Court</b>	<b>Circuit</b>	<b>District</b>	<b>Probate</b>
Clare & Gladwin 55 <sup>th</sup> Circuit	+1		
Dickinson, Iron & Menominee 41 <sup>st</sup> Circuit	-1		
Genesee 7 <sup>th</sup> Circuit	+1		
Genesee 68 <sup>th</sup> District		-1	
Kent 17 <sup>th</sup> Circuit	+1		
Macomb 16 <sup>th</sup> Circuit	+1		
Mecosta & Osceola 49 <sup>th</sup> Circuit	+1		
Oakland 6 <sup>th</sup> Circuit	+2*		
Oakland			-1*
Saginaw 70 <sup>th</sup> District		-1	
Wayne			-1
*The JRR recommends adding one judgeship immediately and another January 1, 2009 upon the retirement of an Oakland County probate judge.			

Currently, there are six bills before the Legislature that would address the number of judgeships: House Bill 5374 (H-2), which was passed by the House on January 18, 2006, and Senate Bills 883, 907 (S-3), 925, 946, and 955, which were passed by the Senate on January 25, 2006. The bills propose the following changes:

**Table 3**

<b>Judgeship Changes Recommended By State Court Administrative Office Pending Legislation January 2006</b>									
<b>Court</b>	<b>JRR</b>	<b>H.B. 5374</b>	<b>H.B. 5374 (H-2)</b>	<b>S.B. 907</b>	<b>S.B. 907 (S-3)</b>	<b>S.B. 925</b>	<b>S.B. 883</b>	<b>S.B. 946</b>	<b>S.B. 955</b>
Clare & Gladwin 55 <sup>th</sup> Circuit	+1	+1	+1	+1					+1
Dickinson, Iron & Menominee 41 <sup>st</sup> Circuit	-1	-1							
Genesee 7 <sup>th</sup> Circuit	+1	+1	+1	+1	+1				
Genesee 68 <sup>th</sup> District	-1	-1		-1					
Kent 17 <sup>th</sup> Circuit	+1	+1	+1	+1			+1		
Macomb 16 <sup>th</sup> Circuit	+1	+1	+1	+1		+1			
Mecosta & Osceola 49 <sup>th</sup> Circuit	+1	+1	+1	+1	+1				
Oakland 6 <sup>th</sup> Circuit	+2*	+2*	+1	+2*				+1	
Oakland County Probate	-1*	-1*		-1*					
Saginaw 70 <sup>th</sup> District	-1	-1		-1					
Wayne County Probate	-1	-1		-1					
* The JRR and the legislation before the Senate propose to add one judgeship to the 6 <sup>th</sup> Circuit immediately and another on January 1, 2009 upon the retirement of an Oakland County probate judge.									

As can be seen in the table above, the original version of House Bill 5374 contained all of the changes in the SCAO's 2005 report. The current substitute (H-2) omits the elimination of judgeships in the 41<sup>st</sup> Circuit, the 68<sup>th</sup> District, the 70<sup>th</sup> District, Oakland County Probate, and Wayne County Probate, as well as the addition of a second judgeship in the 6<sup>th</sup> Circuit.



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Senate Bill 907 (S-3) omits the eliminations of judgeships in Wayne County Probate, the 68<sup>th</sup> District, and the 70<sup>th</sup> District, which were contained in the original version of the bill. The second judgeship to be added to the 6<sup>th</sup> Circuit would have replaced an Oakland County probate judge, so the bills eliminate both aspects of that exchange.

Several of these changes were recommended in the 2003 JRR, but none was implemented. The 2005 report reiterates the need for additional judgeships in the 16<sup>th</sup>, 17<sup>th</sup>, and 55<sup>th</sup> Circuits, and for the elimination of judgeships in Wayne County Probate Court and the 70<sup>th</sup> District. The recommendation for the elimination of a judgeship in the 8<sup>th</sup> District was not included in 2005, and the recommendation for an additional judgeship in the 77<sup>th</sup> District became a recommendation for an additional judgeship in the 49<sup>th</sup> Circuit, both of which serve Mecosta and Osceola Counties.

### Fiscal Impact

Based on current judicial salaries, the bills would cost the State the following annual amounts for each new judgeship, or save the same amount for each elimination:

**Table 4**

<b>Cost to the State Per Judgeship - 2006</b>		
<b>Costs to the State</b>	<b>Circuit/Probate</b>	<b>District</b>
Salary	\$139,919	\$138,272
Social Security	5,840	5,840
Medicare	2,029	2,005
Defined Contribution Retirement	9,794	9,679
<b>Total</b>	<b>\$157,582</b>	<b>\$155,796</b>

If all of the changes in the JRR were implemented, it would add six circuit judgeships in 2007 and one in 2009, which would cost the State \$1,103,074 per year when completed.

The implementation of all of the JRR changes also would eliminate one circuit judgeship, two district judgeships, and two probate judgeships, for net savings to the State of \$784,338 per year. These changes would occur either when a vacancy occurs or when an incumbent does not seek reelection; therefore, the savings would be staggered over several years. There also could be small differences in savings as some judges due to retire are participants in the defined benefit plan and not the defined contribution plan.

Local expenses would include the cost of benefits for judges, support staff wages and benefits, and facility space.

The fiscal impact of each bill would vary considerably. House Bill 5374 (H-2) would have an annual net cost of \$945,492 when fully implemented. The most recent version of Senate Bill 907 (S-3) would have an annual net cost of \$315,164. Each remaining Senate bill would add one circuit judgeship, for an annual cost of \$157,582 per judgeship. If all of the Senate bills were passed, they would have an annual net cost of \$945,492.

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### **Conclusion**

Until 2003, the Legislature made many of the changes recommended in the biennial JRR. In fact, since the 1980 report, the Legislature has consistently changed the number of judgeships throughout the State in response to the court's recommendations. However, for various reasons, legislation was not enacted to implement the 2003 JRR. Several different bills have emerged from the 2005 report and are being deliberated by the Legislature. Currently, House Bill 5374 has been passed by the House and referred to the Senate Committee on Judiciary, and the Senate bills have been passed by the Senate and referred to the House Committee on Judiciary.

As the process begins again, the obstacles of 2003 remain. The economy continues to struggle, and State spending continues to be curtailed. In addition to fiscal difficulties, changing the number of judgeships in an area can be controversial. The City of Flint already has voiced objections to the reduction of one judgeship, and other areas are challenging the recommendations as well. For the 2006 primary and general elections, legislation must be enacted by April 2006 to grant counties and candidates for judgeships sufficient time to file the paperwork required by law.



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### **Governor Granholm's Michigan First Healthcare Plan** **By Steve Angelotti, Fiscal Analyst and David Fosdick, Fiscal Analyst**

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#### **Background**

In her State of the State address last month, Governor Jennifer Granholm proposed a new health insurance program called the "Michigan First Healthcare Plan". The proposal would provide health insurance coverage to uninsured adults under 200% of the poverty level by using \$1.0 billion in Federal funds to cover an estimated 550,000 individuals.

The Michigan First Healthcare Plan was included in the Governor's fiscal year (FY) 2006-07 Department of Community Health (DCH) budget, with a starting date of April 1, 2007. Partial-year funding of \$200.0 million, all Federal, was proposed in the Executive budget.

The Michigan First Healthcare Plan would require a Federal Medicaid waiver and the waiver process is in its earliest stages. Other states have had success negotiating with the Centers for Medicaid and Medicare Services (CMS) before submitting a formal waiver document. (For instance, Florida negotiated its waiver with CMS and then formally submitted its waiver, which was approved within weeks.) It appears that the Granholm Administration will try to go through a similar negotiation process with CMS and with the U.S. Department of Health and Human Services (HHS).

The traditional process involves submitting a waiver request to CMS, followed by a lengthy back and forth process involving numerous questions from CMS. Negotiation before submission should help shorten the process. It also would allow the State more flexibility to adjust its waiver request to fit what the Federal government would find acceptable. The State has retained the services of a consulting firm that was instrumental in obtaining waivers for other states, such as Massachusetts.

#### **The Origin of the Proposal**

The concept was partially inspired by the Michigan Adult Benefits Waiver (ABW) program, which went into effect during FY 2003-04. The financing of the proposal incorporates ideas from other states, though there are some key distinctions.

The ABW program involved unused Federal money from allocations dedicated to the expansion of children's health insurance up to 200.0% of poverty (in the MI-Child program). Because the number of uninsured children under 200.0% of poverty in most states proved to be well below estimates, there was a large Federal authorization that was unused. A number of states proposed using the untapped Federal authorization to expand coverage to low-income adults who otherwise would not have insurance. This approach was appealing to the State because Federal money was provided at an enhanced match rate of about 70.0% rather than the usual 56.0% or so in Michigan.



In Michigan, this was done in a way that did not increase General Fund/General Purpose (GF/GP) costs. About \$300.0 million from the GF/GP budget is spent in Michigan on mental health non-Medicaid services, for individuals who are low-income but not Medicaid eligible. This money goes to the Community Mental Health (CMH) system.

It was estimated that about \$40.0 million of this \$300.0 million pool was spent for mental health services to individuals who would be eligible for ABW. Therefore, the ABW waiver proposal carved out this population, with the Federal financing to be provided at the enhanced match rate of 70.0%. This \$40.0 million of mental health spending under ABW would consist of \$12.0 million GF/GP (30.0%) and \$28.0 million Federal (70.0%). This led to immediate GF/GP savings of \$28.0 million. Of this, \$10.0 million GF/GP was used to increase rates for CMHs. The remaining \$18.0 million was used to help finance the rest of the program, which provides limited medical coverage for about 60,000 Michigan residents.

The Administration's proposal for the new program works a bit differently, though it is inspired by the notion of using the CMH non-Medicaid line as the source to earn Federal match funding.

### **The Justification for Seeking Federal Funding**

The Administration points out that it is spending significant sums of money on otherwise uncompensated care, such as CMH non-Medicaid (\$300.0 million GF/GP), CMH purchase of State services (\$125.0 million GF/GP), and other smaller pools of funding including the Disproportionate Share Hospital (DSH) line and the ambulance line. Furthermore, it notes that there are other expenditures such as disproportionate share funding provided by Blue Cross to hospitals that the Administration contends could potentially be seen as State expenditures.

The Administration will note that the State puts up hundreds of millions in State resources to support uncompensated care. Then, through the waiver, it will ask the Federal government to provide Medicaid matching funds for these expenditures. The estimate in the proposal outlined by the Administration is that the Federal government would provide \$1.0 billion per year in matching revenue. This \$1.0 billion in funding then would allow the State to create a health insurance program for adults up to 200.0% of poverty, which the Administration estimates would cover 550,000 adults.

One concern about the waiver is paramount: If the Federal government provided \$1.0 billion in new money per year to Michigan, could other states, citing a precedent in Michigan, submit similar proposals that would increase Federal Medicaid costs by tens of billions each year?

### **The Massachusetts Example and Its Applicability to Michigan**

The Commonwealth of Massachusetts is in the process of implementing an insurance mandate to cover the estimated 450,000 people in Massachusetts without health insurance. Massachusetts officials believe that outreach efforts will bring another 100,000 people onto the Medicaid rolls. The Commonwealth will create another insurance product for the



estimated 200,000 uninsured with incomes over 300.0% of poverty, with most of the costs being borne by the recipients. Finally, Massachusetts will use Federal funding to create a sliding scale private insurance program for about 150,000 who have too much income to be Medicaid eligible but are below 300.0% of poverty.

The latter program will be financed with money currently being used to support a very large disproportionate share pool. That is one of the major differences between Michigan and Massachusetts: The funding for the Massachusetts program already is being received by Massachusetts and involves both a GF/GP and a Federal component, each in the hundreds of millions of dollars. This proposal is not being funded by new Federal dollars. For Michigan truly to imitate Massachusetts, this State would have to increase GF/GP spending by hundreds of millions to draw in the Federal match. What is being proposed currently by the Granholm Administration is identifying current nonmatchable State spending and then asking the Federal government for match funding.

The other significant difference in the Massachusetts case is the insurance mandate. There is one key advantage to a mandate: It puts everyone in the insurance pool, which avoids the problem of adverse selection. Adverse selection is a common problem with insurance expansion, as those most likely to opt for insurance are those who are most likely to use the system, so the more expensive cases end up in the system and the less expensive ones do not join, which raises average costs.

### **Cost Neutrality**

There is one issue that is key to any waiver request: Over the five-year life of a waiver, the waiver must be cost neutral to the Federal government.

This sort of situation has come up before in Michigan—for instance, during the discussions of the managed care waiver 10 years ago, the Federal government approved the waiver because it was shown that there should not be a Federal cost increase. The Engler Administration showed trend lines of expenditures if the system remained on a fee-for-service basis, then compared those to the projected costs of a managed care system, and demonstrated the likelihood of Federal savings.

In the case of managed care, there was a two-fold savings—overall Gross expenditures were projected to be lower than they would be otherwise, so both the Federal government and the State saved money. With the Administration's proposal, Federal expenditures would increase by about \$1.0 billion per year. So the question arises: How can the Administration claim that this proposal would be cost-neutral to the Federal government?

The Administration indicates that it will start with a base year, then project future Medicaid expenditures if current trends continue. Its belief is that more and more people with employer-paid health insurance have been and will continue to be forced onto the Medicaid rolls, thereby increasing Federal costs over time, a trend that the Administration's proposal seeks to reverse.



The Administration also points to a recent waiver request by New York State that proposed using claimed savings from New York's shift to managed care.

Michigan's argument will be that the State has saved the Federal government over \$2.0 billion over the last nine years due to the shift to managed care. The Administration will argue that the trend line expenditures, when started from the correct baseline and assuming there had been no shift to managed care but continued shifts of people from employer-paid health insurance to Medicaid, would show Federal Michigan Medicaid costs in the near future of at least \$1.0 billion per year more than there would be under the Administration's proposal.

It remains to be seen whether the CMS will accept the estimate of \$2.0 billion or more in Federal savings. That would equate to at least \$400.0 million Gross per year on a managed care budget of about \$2.0 billion Gross.

If the Federal government is supportive of the general concept and wishes to approve this waiver, the argument about managed care savings could give the government a strong enough justification to state that the plan meets the cost neutrality requirement.

### **The Insurance Product**

The Administration also has discussed the way the insurance would be provided. The legwork on this part of the proposal is being done by the Office of Financial and Insurance Services (OFIS) in the Department of Labor and Economic Growth.

The vision is of private insurance with more limited benefits than typical coverage. Under Senate Bill 88 (Public Act 306 of 2005), managed care plans will be able to offer more limited coverage. The program would not be an entitlement; it would cover only as many people as can be covered with the available resources. Individuals would choose among various private insurers. There would be premiums and copayments.

The idea is that private insurance would pay providers rates well above Medicaid rates, perhaps even approaching Medicare rates for services. This would ensure participation by providers.

### **How Many Could Be Covered by the Funding?**

Setting aside \$1.0 billion to cover 550,000 people equates to just over \$1,800 per adult per year. The Senate Fiscal Agency is not aware of any managed care firm in this State that would accept \$1,800 per adult, especially given concerns about adverse selection. This concern is compounded by the expectation that payment rates will be well above Medicaid rates.

There are two ways around this. The first is cost-sharing through premiums and copayments. Cost-sharing in this instance would have to be very large to make up the gap between the average cost to the government and the average cost to the insurer.



Second, benefits would have to be limited. The sorts of limitations necessary to fill the gap would make this a restricted benefit coverage. The Administration envisions primary care (such as office visits), emergency care, inpatient hospital care, and mental health services being covered, although the financial constraints would imply limitations on either services or payments.

### **Other Issues**

The Administration has indicated that mental health services for those covered in the program would be provided through the CMH system, which would infuse some extra funding into the public mental health system.

Because the proposal has been included in the Governor's FY 2006-07 budget proposal, the Legislature will have a significant say in the structure and financing of the program.

One concern about the program is that some companies would drop employer-paid health coverage and encourage employees to join the program (also known as "crowd-out"). The Administration is considering requiring a person to be without insurance for six months preceding eligibility. Other states have had experience with new coverage and have come up with ways to address the issue of "crowd-out", and the Administration indicates that it will try to incorporate some of those ideas.

### **Summary**

The proposal will have to go through a long process to achieve approval. The most basic question is whether the Federal government will provide \$1.0 billion per year in new money to Michigan without the State's contributing any new State funds. There are also concerns as to whether \$1.0 billion will be sufficient to cover 550,000 adults.

The Federal government has been willing to approve what some would term "aggressive" waivers. Even if the Administration's proposal proves to be too "aggressive" to meet Federal approval, the more informal negotiation process will allow greater flexibility in terms of putting together a more scaled-back proposal that could be approved and significantly expand health care coverage in the State.

It is also possible that the Federal government will see this as an opportunity to reduce the number of uninsured and support the program, even if in a modified form. If such a program is approved, it will be important for the Legislature to exert oversight to ensure that the proposal is workable for the State, the recipients, and the providers.